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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,668	10/18/2004	Shuichi Ohkubo	P/1929-97	4233

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EXAMINER

CHOW, LIXI

ART UNIT PAPER NUMBER

2627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/511,668

Applicant(s)

OHKUBO, SHUICHI

Examiner

Lixi Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,7,8,12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,9,10,14 and 16 is/are rejected.
- 7) ☒ Claim(s) 2,6,11 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Horie et al. (US 5,581,539).

Regarding claims 5 and 14:

The amendments made to claim 5 are for editorial revision, and do not change the scope of the claim. Hence, claims 5 and 14 are rejected under the same reasons set forth in the previous Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 9, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horie et al. (US 5,581,539) in view of Kondo (USP 2003/0053404).

Regarding claims 1, 9, 10 and 16:

The amendment made to claim 1 are for editorial revision, and do not change the scope of the claim. Hence, claims 1, 9, 10 and 16 are rejected under the same reasons set forth in the previous

Response to Arguments

5. Applicant's arguments filed 11/1/06 have been fully considered but they are not persuasive. Applicant argues, "Horie does not disclose or suggest varying mark lengths to control the ratio of groove signal amplitude to land signal amplitude", and states that Horie cannot anticipate the features claimed in claim 5. Although Examiner acknowledges that Horie does not disclose signal amplitudes varying with mark length; however, it is noted that claim 5 does not include the limitation, "varying mark lengths to control the ratio of groove signal amplitude to land signal amplitude", nor "signal amplitude varying with mark length".

Since Horie teaches that the levels for the respective signal amplitudes (i.e., the signal amplitude in the groove and the signal amplitude in the land) are to be equal to each other, and/or the ratio of the signal amplitudes is not less than 0.5 and not more than 2.0, Horie shows that mT is selected so that a signal amplitude $IL1$ from the land portion and a signal amplitude $IL2$ of the groove portion satisfy the relation of $1 < (IL1/IL2) < 1.3$. Furthermore, it can be seen from Fig. 8 that when there is no difference in land width and groove width, the signal level of mark recorded in the land portion is very close to the signal level of the mark recorded in the groove portion. Such relation of the signal level between the land portion and the groove portion applies to all mark lengths, therefore, Horie teaches the limitation, " mT is selected so that an amplitude $IL1$ of a reproduced signal from the longest recording mark with the mark length mT recorded on

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the first portion, and an amplitude IL2 of a reproduced signal from the longest recording mark with the mark mT recorded on the second portion satisfy a relation of $1 < (IL1/IL2) < 1.3$ ".

Accordingly, claims 5 and 14 are not patentable over Horie. In addition, the argument in regards to claim 1 is also not persuasive under the same reasons set forth above. Thus, claims 1, 9, 10 and 16 are not patentable over Horie in view of Kondo.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

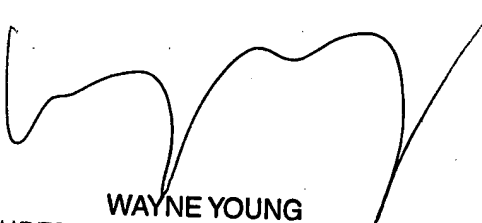
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lixi Chow whose telephone number is 571-272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LC 2/21/07



WAYNE YOUNG
SUPERVISORY PATENT EXAMINER